IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 1ST FEBRUARY 2007 / 12TH MAGHA 1928

Con.Case(C).No. 1338 of 2006(S)

AGAINST THE JUDGEMENT/ORDER IN WPC.18180/2003 Dated 14/10/2005

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PETITIONER/6TH RESPONDENT

JOHN ABRAHAM,
S/O.JOHN, AGED 53 YEARS, PUTHEN VEETTIL HOUSE,
VATTEKKOTTAL, PURAMATTAM VILLAGE,
MALLAPPALLY TALUK,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.TOMY SEBASTIAN
SRI.SAJEEVAN KURUKKUTTIYULLATHIL

RESPONDENTS: 2ND RESPONDENT

SMT.RANI GEORGE I.A.S,
D/O.GEORGE,
AGE NOT KNOWN TO THE PETITION
DISTRICT COLLECTOR, KOTTAYAM,.

BY GOVERNMENT PLEADER SMT. PUSHPALATHA

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 01/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

Cont.Case (C)No. 1338 of 2006-S

Dated this the Ist day of February, 2007.

JUDGMENT

The petitioner has filed this contempt application alleging that the respondent has failed to obey the direction of this court in Annexure-B judgment. The relevant portion of the said judgment reads as follows:

> " Going by the provisions of the Kerala Revenue Recovery Act, the District Collector is bound to take further action in the matter, under Section 54 and also consequential action under Section 56. In view of the above position, the 2nd respondent District Collector is directed to take a decision on the claim of the petitioners for confirming the sale in their favour in accordance with law, after affording an opportunity of being heard to them and respondents 5 and 6, within two months from the date of receipt of a copy of this judgment. If the sale is confirmed in favour of the petitioners, needless to say, further action under Section 56 shall be taken without delay. If, for any reason, the sale cannot be confirmed, the amounts deposited by the petitioners shall be ordered to be refunded to them with reasonable interest, which shall not, in any case, be less that 6%."

The petitioner submits the order as directed by this court was passed without affording him an opportunity of being heard. So, he

prays for initiating contempt proceedings.

2. The respondent has filed a counter affidavit in which it is submitted that copy of the judgment was received by the respondent only on 26-11-2005. The order confirming the sale was on 22-10-2005. So, it is submitted that by not hearing the petitioner, the respondent has not committed any contempt. The petitioner has filed a reply affidavit. But, he does not dispute the statement of the respondent regarding the receipt of the notice. The only contention raised is that the judgment was actually rendered on 14-10-2005. Therefore, the District Collector who is a party must be presumed to know the same.

3. Going by the above facts, I feel that this is not a fit case for referring the respondent for being tried for the offence of contempt before the Division Bench. Technically the respondent is presumed to know the order since she was a party in the writ petition. But, in practice only when the certified copy is presented, the respondent would be knowing the directions issued by this court.

Accordingly, the Contempt Case (Civil) is closed without prejudice to the contentions of the petitioner against the order

passed by the respondent and his right to challenge the same in appropriate proceedings.

K.BALAKRISHNAN NAIR,
JUDGE.

MS